

HOUSE BILL NO. 1935

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations

on _____)

(Patron Prior to Substitute--Delegate Watts)

A BILL to amend and reenact §§ 58.1-301, 58.1-322.02, 58.1-322.03, and 58.1-402 of the Code of Virginia, relating to conformity of the Commonwealth's taxation system with the Internal Revenue Code.

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-301, 58.1-322.02, 58.1-322.03, and 58.1-402 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-301. Conformity to Internal Revenue Code.

A. Any term used in this chapter shall have the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required.

B. Any reference in this chapter to the laws of the United States relating to federal income taxes shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes, as they existed on December 31, ~~2019~~ 2020, except for:

1. The special depreciation allowance for certain property provided for under §§ 168(k), 168(l), 168(m), 1400L, and 1400N of the Internal Revenue Code;

2. The carry-back of certain net operating losses for five years under § 172(b)(1)(H) of the Internal Revenue Code;

3. The original issue discount on applicable high yield discount obligations under § 163(e)(5)(F) of the Internal Revenue Code;

4. The deferral of certain income under § 108(i) of the Internal Revenue Code. For Virginia income tax purposes, income from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument" (as defined under § 108(i) of the Internal Revenue Code) reacquired in the taxable year shall be fully included in the taxpayer's Virginia taxable income for the taxable year, unless the taxpayer elects to include such income in the taxpayer's Virginia taxable income ratably over a three-taxable-year period beginning with taxable year 2009 for transactions completed in taxable year 2009, or over a three-taxable-year period beginning with taxable year 2010 for transactions completed in taxable year 2010 on or before April 21, 2010. For purposes of such election, all other provisions of § 108(i) of the Internal Revenue Code shall apply mutatis mutandis. No other deferral shall be allowed for income from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument";

5. For taxable years beginning on and after January 1, 2019, ~~the provisions of § 11046 of the federal Tax Cuts and Jobs Act, P.L. 115-97 (2017), related to the suspension of the overall limitation on itemized deductions under § 68(f) of the Internal Revenue Code; and~~

~~6. The provisions of § 103 of Division Q of the federal Further Consolidated Appropriations Act, 2020, P.L. 116-94 (2019), related to the reduction in the medical expense deduction floor~~ For taxable years beginning on and after January 1, 2017, but before January 1, 2018, and for taxable years beginning on and after January 1, 2019, the 7.5 percent of federal adjusted gross income threshold set forth in § 213(a) of the Internal Revenue Code that is used for purposes of computing the deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code. For such taxable years, the threshold utilized for Virginia income tax purposes to compute the deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code shall be 10 percent of federal adjusted gross income;

7. The provisions of §§ 2303(a) and 2303(b) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to the net operating loss limitation and carryback;

8. The provisions of § 2304(a) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to a loss limitation applicable to taxpayers other than corporations;

9. The provisions of § 2306 of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to the limitation on business interest; and

10. The provisions of §§ 276(a), 276(b)(2), 276(b)(3), 278(a)(2), 278(a)(3), 278(b)(2), 278(b)(3), 278(c)(2), 278(c)(3), 278(d)(2), and 278(d)(3) of the federal Consolidated Appropriations Act, P.L. 116-260 (2020), related to deductions, tax attributes, and basis increases for certain loan forgiveness and other business financial assistance.

The Department of Taxation is hereby authorized to develop procedures or guidelines for implementation of the provisions of this section, which procedures or guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

§ 58.1-322.02. Virginia taxable income; subtractions.

In computing Virginia taxable income pursuant to § 58.1-322, to the extent included in federal adjusted gross income, there shall be subtracted:

1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission, or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States, including, but not limited to, stocks, bonds, treasury bills, and treasury notes but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

2. Income derived from obligations, or on the sale or exchange of obligations, of the Commonwealth or of any political subdivision or instrumentality of the Commonwealth.

3. Benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code.

4. Up to \$20,000 of disability income, as defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code; however, any person who claims a deduction under subdivision 5 of § 58.1-322.03 may not also claim a subtraction under this subdivision.

5. The amount of any refund or credit for overpayment of income taxes imposed by the Commonwealth or any other taxing jurisdiction.

6. The amount of wages or salaries eligible for the federal Work Opportunity Credit which was not deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

7. Any amount included therein less than \$600 from a prize awarded by the Virginia Lottery.

8. The wages or salaries received by any person for active and inactive service in the National Guard of the Commonwealth of Virginia, not to exceed the amount of income derived from 39 calendar days of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of O3 and below shall be entitled to the deductions specified in this subdivision.

9. Amounts received by an individual, not to exceed \$1,000 for taxable years beginning on or before December 31, 2019, and \$5,000 for taxable years beginning on or after January 1, 2020, as a reward for information provided to a law-enforcement official or agency, or to a nonprofit corporation created exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of perpetrators of crimes. This subdivision shall not apply to the following: an individual who is an employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which the reward was paid, or any person who is compensated for the investigation of crimes or accidents.

10. The amount of "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and members of limited liability companies to the extent and in the same manner as other deductions may pass through to such partners, shareholders, and members.

11. Any income received during the taxable year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the extent the contributions to such plan or program were subject to taxation under the income tax in another state.

12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

13. All military pay and allowances, to the extent included in federal adjusted gross income and not otherwise subtracted, deducted, or exempted under this section, earned by military personnel while serving by order of the President of the United States with the consent of Congress in a combat zone or qualified hazardous duty area that is treated as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

14. For taxable years beginning before January 1, 2015, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent that a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.

15. Fifteen thousand dollars of military basic pay for military service personnel on extended active duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar by the amount by which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero if such military basic pay amount is equal to or exceeds \$30,000.

16. The first \$15,000 of salary for each federal and state employee whose total annual salary from all employment for the taxable year is \$15,000 or less.

17. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

18. Any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.

19. Items of income attributable to, derived from, or in any way related to (i) assets stolen from, hidden from, or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other consideration received by a victim or target of Nazi persecution to compensate such individual for performing labor against his will under the threat of death, during World War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with the proceeds from the sale of assets stolen from, hidden from, or otherwise lost to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The

provisions of this subdivision shall only apply to an individual who was the first recipient of such items of income and who was a victim or target of Nazi persecution, or a spouse, surviving spouse, or child or stepchild of such victim.

As used in this subdivision:

"Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any other neutral European country or area in Europe under the influence or threat of Nazi invasion.

"Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by the Nazi regime who had assets stolen from, hidden from, or otherwise lost as a result of any act or omission in any way relating to (i) the Holocaust, (ii) World War II and its prelude and direct aftermath, (iii) transactions with or actions of the Nazi regime, (iv) treatment of refugees fleeing Nazi persecution, or (v) the holding of such assets by entities or persons in the Swiss Confederation during World War II and its prelude and aftermath. A "victim or target of Nazi persecution" also includes any individual forced into labor against his will, under the threat of death, during World War II and its prelude and direct aftermath.

20. The military death gratuity payment made after September 11, 2001, to the survivor of deceased military personnel killed in the line of duty, pursuant to 10 U.S.C. Chapter 75; however, the subtraction amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal gross income in accordance with § 134 of the Internal Revenue Code.

21. The death benefit payments from an annuity contract that are received by a beneficiary of such contract, provided that (i) the death benefit payment is made pursuant to an annuity contract with an insurance company and (ii) the death benefit payment is paid solely by lump sum. The subtraction under this subdivision shall be allowed only for that portion of the death benefit payment that is included in federal adjusted gross income.

22. Any gain recognized from the sale of launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of a

launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch services must be performed in Virginia or originate from an airport or spaceport in Virginia.

23. Any gain recognized as a result of resupply services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8, and launched from an airport or spaceport in Virginia.

24. Any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as investment services partnership interest income (otherwise known as investment partnership carried interest income) for federal income tax purposes. To qualify for a subtraction under this subdivision, such income shall be attributable to an investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the Secretary of Administration, provided that the business has its principal office or facility in the Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this subdivision, the investment shall be made between the dates of April 1, 2010, and June 30, 2020. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an investment in the same business.

25. For taxable years beginning on and after January 1, 2014, any income of an account holder for the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's first-time home buyer savings account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36 and (ii) interest income or other income for federal income tax purposes attributable to such person's first-time home buyer savings account.

Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys or funds withdrawn from the first-time home buyer savings account were used for any purpose other than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under § 36-174. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable year that was used for other than the payment of eligible costs, computed by multiplying the amount withdrawn and used for

other than the payment of eligible costs by the ratio of the aggregate earnings in the account at the time of the withdrawal to the total balance in the account at such time.

However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i) withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101 through 1330; or (iii) transferred from an account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36 into another account established pursuant to such chapter for the benefit of another qualified beneficiary.

For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings account," and "qualified beneficiary" mean the same as those terms are defined in § 36-171.

26. For taxable years beginning on and after January 1, 2015, any income for the taxable year attributable to the discharge of a student loan solely by reason of the student's death. For purposes of this subdivision, "student loan" means the same as that term is defined under § 108(f) of the Internal Revenue Code.

27. a. Income, including investment services partnership interest income (otherwise known as investment partnership carried interest income), attributable to an investment in a Virginia venture capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this subdivision for an investment in a company that is owned or operated by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 27:

"Qualified portfolio company" means a company that (i) has its principal place of business in the Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or service other than the management or investment of capital; and (iii) provides equity in the company to the Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company" does not include a company that is an individual or sole proprietorship.

213 "Virginia venture capital account" means an investment fund that has been certified by the
214 Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital
215 account, the operator of the investment fund shall register the investment fund with the Department prior
216 to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed
217 to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one
218 investor who has at least four years of professional experience in venture capital investment or
219 substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to,
220 an undergraduate degree from an accredited college or university in economics, finance, or a similar field
221 of study. The Department may require an investment fund to provide documentation of the investor's
222 training, education, or experience as deemed necessary by the Department to determine substantial
223 equivalency. If the Department determines that the investment fund employs at least one investor with the
224 experience set forth herein, the Department shall certify the investment fund as a Virginia venture capital
225 account at such time as the investment fund actually invests at least 50 percent of the capital committed
226 to its fund in qualified portfolio companies.

227 28. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for
228 a subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before
229 December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by a
230 family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for
231 a taxpayer who has claimed a subtraction under subdivision 24 or 27 or a tax credit under § 58.1-339.4
232 for the same investment.

233 b. As used in this subdivision 28:

234 "Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of §
235 2.2-115.

236 "Double distressed" means satisfying the criteria applicable to a locality described in subdivision
237 E 3 of § 2.2-115.

238 "Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C.
239 § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be

certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If the Department determines that the trust satisfies the preceding criteria, the Department shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed.

29. For taxable years beginning on and after January 1, 2019, any gain recognized from the taking of real property by condemnation proceedings.

30. For taxable years beginning on and after January 1, 2020, but before January 1, 2021, up to \$100,000 of all grant funds received by the taxpayer under the Rebuild Virginia program established by the Governor and administered by the Department of Small Business and Supplier Diversity.

§ 58.1-322.03. Virginia taxable income; deductions.

In computing Virginia taxable income pursuant to § 58.1-322, there shall be deducted from Virginia adjusted gross income as defined in § 58.1-321:

1. a. The amount allowable for itemized deductions for federal income tax purposes where the taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted on such federal return and increased by an amount that, when added to the amount deducted under § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for such purposes at a rate of 18 cents per mile; or

b. Provided that the taxpayer has not itemized deductions for the taxable year on his federal income tax return: (i) for taxable years beginning before January 1, 2019, and on and after January 1, 2026, \$3,000 for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return) and (ii) for taxable years beginning on and after January 1, 2019, but before January 1, 2026, \$4,500 for single individuals and \$9,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return). For purposes of this section, any

person who may be claimed as a dependent on another taxpayer's return for the taxable year may compute the deduction only with respect to earned income.

2. a. A deduction in the amount of \$930 for each personal exemption allowable to the taxpayer for federal income tax purposes.

b. Each blind or aged taxpayer as defined under § 63(f) of the Internal Revenue Code shall be entitled to an additional personal exemption in the amount of \$800.

The additional deduction for blind or aged taxpayers allowed under this subdivision shall be allowable regardless of whether the taxpayer itemizes deductions for the taxable year for federal income tax purposes.

3. A deduction equal to the amount of employment-related expenses upon which the federal credit is based under § 21 of the Internal Revenue Code for expenses for household and dependent care services necessary for gainful employment.

4. An additional \$1,000 deduction for each child residing for the entire taxable year in a home under permanent foster care placement as defined in § 63.2-908, provided that the taxpayer can also claim the child as a personal exemption under § 151 of the Internal Revenue Code.

5. a. A deduction in the amount of \$12,000 for individuals born on or before January 1, 1939.

b. A deduction in the amount of \$12,000 for individuals born after January 1, 1939, who have attained the age of 65. This deduction shall be reduced by \$1 for every \$1 that the taxpayer's adjusted federal adjusted gross income exceeds \$50,000 for single taxpayers or \$75,000 for married taxpayers. For married taxpayers filing separately, the deduction shall be reduced by \$1 for every \$1 that the total combined adjusted federal adjusted gross income of both spouses exceeds \$75,000.

For the purposes of this subdivision, "adjusted federal adjusted gross income" means federal adjusted gross income minus any benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code, as amended.

292 6. The amount an individual pays as a fee for an initial screening to become a possible bone marrow
293 donor, if (i) the individual is not reimbursed for such fee or (ii) the individual has not claimed a deduction
294 for the payment of such fee on his federal income tax return.

295 7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed
296 during the taxable year for a prepaid tuition contract or college savings trust account entered into with the
297 Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as provided
298 in subdivision b, the amount deducted on any individual income tax return in any taxable year shall be
299 limited to \$4,000 per prepaid tuition contract or college savings trust account. No deduction shall be
300 allowed pursuant to this subdivision 7 if such payments or contributions are deducted on the purchaser's
301 or contributor's federal income tax return. If the purchase price or annual contribution to a college savings
302 trust account exceeds \$4,000, the remainder may be carried forward and subtracted in future taxable years
303 until the purchase price or college savings trust contribution has been fully deducted; however, except as
304 provided in subdivision b, in no event shall the amount deducted in any taxable year exceed \$4,000 per
305 contract or college savings trust account. Notwithstanding the statute of limitations on assessments
306 contained in § 58.1-312, any deduction taken hereunder shall be subject to recapture in the taxable year
307 or years in which distributions or refunds are made for any reason other than (i) to pay qualified higher
308 education expenses, as defined in § 529 of the Internal Revenue Code or (ii) the beneficiary's death,
309 disability, or receipt of a scholarship. For the purposes of this subdivision, "purchaser" or "contributor"
310 means the person shown as such on the records of the Virginia College Savings Plan as of December 31
311 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or college savings
312 trust account, the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition
313 contract or college savings trust account, including, but not limited to, carryover and recapture of
314 deductions.

315 b. A purchaser of a prepaid tuition contract or contributor to a college savings trust account who
316 has attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$4,000
317 per prepaid tuition contract or college savings trust account in any taxable year. Such taxpayer shall be

318 allowed a deduction for the full amount paid for the contract or contributed to a college savings trust
319 account, less any amounts previously deducted.

320 8. The total amount an individual actually contributed in funds to the Virginia Public School
321 Construction Grants Program and Fund, established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1,
322 provided that the individual has not claimed a deduction for such amount on his federal income tax return.

323 9. An amount equal to 20 percent of the tuition costs incurred by an individual employed as a
324 primary or secondary school teacher licensed pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1
325 to attend continuing teacher education courses that are required as a condition of employment; however,
326 the deduction provided by this subdivision shall be available only if (i) the individual is not reimbursed
327 for such tuition costs and (ii) the individual has not claimed a deduction for the payment of such tuition
328 costs on his federal income tax return.

329 10. The amount an individual pays annually in premiums for long-term health care insurance,
330 provided that the individual has not claimed a deduction for federal income tax purposes, or, for taxable
331 years beginning before January 1, 2014, a credit under § 58.1-339.11. For taxable years beginning on and
332 after January 1, 2014, no such deduction for long-term health care insurance premiums paid by the
333 individual during the taxable year shall be allowed if the individual has claimed a federal income tax
334 deduction for such taxable year for long-term health care insurance premiums paid by him.

335 11. Contract payments to a producer of quota tobacco or a tobacco quota holder, or their spouses,
336 as provided under the American Jobs Creation Act of 2004 (P.L. 108-357), but only to the extent that such
337 payments have not been subtracted pursuant to subsection D of § 58.1-402, as follows:

338 a. If the payment is received in installment payments, then the recognized gain may be subtracted
339 in the taxable year immediately following the year in which the installment payment is received.

340 b. If the payment is received in a single payment, then 10 percent of the recognized gain may be
341 subtracted in the taxable year immediately following the year in which the single payment is received.
342 The taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

343 12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6 (§ 58.1-
344 600 et seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the following items of

tangible personal property: (i) any clothes washers, room air conditioners, dishwashers, and standard size refrigerators that meet or exceed the applicable energy star efficiency requirements developed by the U.S. Environmental Protection Agency and the U.S. Department of Energy; (ii) any fuel cell that (a) generates electricity using an electrochemical process, (b) has an electricity-only generation efficiency greater than 35 percent, and (c) has a generating capacity of at least two kilowatts; (iii) any gas heat pump that has a coefficient of performance of at least 1.25 for heating and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that yields an energy factor of at least 1.7; (v) any electric heat pump that has a heating system performance factor of at least 8.0 and a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner that has a cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater that has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization rating of 85; and (x) programmable thermostats.

13. The lesser of \$5,000 or the amount actually paid by a living donor of an organ or other living tissue for unreimbursed out-of-pocket expenses directly related to the donation that arose within 12 months of such donation, provided that the donor has not taken a medical deduction in accordance with the provisions of § 213 of the Internal Revenue Code for such expenses. The deduction may be taken in the taxable year in which the donation is made or the taxable year in which the 12-month period expires.

14. For taxable years beginning on and after January 1, 2013, the amount an individual age 66 or older with earned income of at least \$20,000 for the year and federal adjusted gross income not in excess of \$30,000 for the year pays annually in premiums for (i) a prepaid funeral insurance policy covering the individual or (ii) medical or dental insurance for any person for whom individual tax filers may claim a deduction for such premiums under federal income tax laws. As used in this subdivision, "earned income" means the same as that term is defined in § 32(c) of the Internal Revenue Code. The deduction shall not be allowed for any portion of such premiums paid for which the individual has (a) been reimbursed, (b) claimed a deduction for federal income tax purposes, (c) claimed a deduction or subtraction under another provision of this section, or (d) claimed a federal income tax credit or any income tax credit pursuant to this chapter.

15. For taxable years beginning on and after January 1, 2018, 20 percent of business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code. For purposes of this subdivision, "business interest" means the same as that term is defined under § 163(j) of the Internal Revenue Code.

16. For taxable years beginning on and after January 1, 2019, the actual amount of real and personal property taxes imposed by the Commonwealth or any other taxing jurisdiction not otherwise deducted solely on account of the dollar limitation imposed on individual deductions by § 164(b)(6)(B) of the Internal Revenue Code.

17. For taxable years beginning on and after January 1, 2020, but before January 1, 2021, up to \$100,000 of the amount that is not deductible when computing federal adjusted gross income solely on account of the portion of subdivision B 10 of § 58.1-301 related to Paycheck Protection Program loans.

§ 58.1-402. Virginia taxable income.

A. For purposes of this article, Virginia taxable income for a taxable year means the federal taxable income and any other income taxable to the corporation under federal law for such year of a corporation adjusted as provided in subsections B, C, D, E, ~~and G,~~ and H.

For a regulated investment company and a real estate investment trust, such term means the "investment company taxable income" and "real estate investment trust taxable income," respectively, to which shall be added in each case any amount of capital gains and any other income taxable to the corporation under federal law which shall be further adjusted as provided in subsections B, C, D, E, ~~and G,~~ and H.

B. There shall be added to the extent excluded from federal taxable income:

1. Interest, less related expenses to the extent not deducted in determining federal taxable income, on obligations of any state other than Virginia, or of a political subdivision of any such other state unless created by compact or agreement to which the Commonwealth is a party;

2. Interest or dividends, less related expenses to the extent not deducted in determining federal taxable income, on obligations or securities of any authority, commission or instrumentality of the United

398 States, which the laws of the United States exempt from federal income tax but not from state income
399 taxes;

400 3. [Repealed.]

401 4. The amount of any net income taxes and other taxes, including franchise and excise taxes, which
402 are based on, measured by, or computed with reference to net income, imposed by the Commonwealth or
403 any other taxing jurisdiction, to the extent deducted in determining federal taxable income;

404 5. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;

405 6. [Repealed.]

406 7. The amount required to be included in income for the purpose of computing the partial tax on
407 an accumulation distribution pursuant to § 667 of the Internal Revenue Code;

408 8. a. For taxable years beginning on and after January 1, 2004, the amount of any intangible
409 expenses and costs directly or indirectly paid, accrued, or incurred to, or in connection directly or
410 indirectly with one or more direct or indirect transactions with one or more related members to the extent
411 such expenses and costs were deductible or deducted in computing federal taxable income for Virginia
412 purposes. This addition shall not be required for any portion of the intangible expenses and costs if one of
413 the following applies:

414 (1) The corresponding item of income received by the related member is subject to a tax based on
415 or measured by net income or capital imposed by Virginia, another state, or a foreign government that has
416 entered into a comprehensive tax treaty with the United States government;

417 (2) The related member derives at least one-third of its gross revenues from the licensing of
418 intangible property to parties who are not related members, and the transaction giving rise to the expenses
419 and costs between the corporation and the related member was made at rates and terms comparable to the
420 rates and terms of agreements that the related member has entered into with parties who are not related
421 members for the licensing of intangible property; or

422 (3) The corporation can establish to the satisfaction of the Tax Commissioner that the intangible
423 expenses and costs meet both of the following: (i) the related member during the same taxable year directly
424 or indirectly paid, accrued or incurred such portion to a person who is not a related member, and (ii) the

transaction giving rise to the intangible expenses and costs between the corporation and the related member did not have as a principal purpose the avoidance of any portion of the tax due under this chapter.

b. A corporation required to add to its federal taxable income intangible expenses and costs pursuant to subdivision a may petition the Tax Commissioner, after filing the related income tax return for the taxable year and remitting to the Tax Commissioner all taxes, penalties, and interest due under this article for such taxable year including tax upon any amount of intangible expenses and costs required to be added to federal taxable income pursuant to subdivision a, to consider evidence relating to the transaction or transactions between the corporation and a related member or members that resulted in the corporation's taxable income being increased, as required under subdivision a, for such intangible expenses and costs.

If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and convincing evidence, that the transaction or transactions between the corporation and a related member or members resulting in such increase in taxable income pursuant to subdivision a had a valid business purpose other than the avoidance or reduction of the tax due under this chapter, the Tax Commissioner shall permit the corporation to file an amended return. For purposes of such amended return, the requirements of subdivision a shall not apply to any transaction for which the Tax Commissioner is satisfied (and has identified) that the transaction had a valid business purpose other than the avoidance or reduction of the tax due under this chapter. Such amended return shall be filed by the corporation within one year of the written permission granted by the Tax Commissioner and any refund of the tax imposed under this article shall include interest at a rate equal to the rate of interest established under § 58.1-15 and such interest shall accrue as provided under § 58.1-1833. However, upon the filing of such amended return, any related member of the corporation that subtracted from taxable income amounts received pursuant to subdivision C 21 shall be subject to the tax imposed under this article on that portion of such amounts for which the corporation has filed an amended return pursuant to this subdivision. In addition, for such transactions identified by the Tax Commissioner herein by which he has been satisfied by clear and convincing evidence, the Tax Commissioner may permit the corporation in filing income tax returns

451 for subsequent taxable years to deduct the related intangible expenses and costs without making the
452 adjustment under subdivision a.

453 The Tax Commissioner may charge a fee for all direct and indirect costs relating to the review of
454 any petition pursuant to this subdivision, to include costs necessary to secure outside experts in evaluating
455 the petition. The Tax Commissioner may condition the review of any petition pursuant to this subdivision
456 upon payment of such fee.

457 No suit for the purpose of contesting any action of the Tax Commissioner under this subdivision
458 shall be maintained in any court of this Commonwealth.

459 c. Nothing in subdivision B 8 shall be construed to limit or negate the Department's authority under
460 § 58.1-446;

461 9. a. For taxable years beginning on and after January 1, 2004, the amount of any interest expenses
462 and costs directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with
463 one or more direct or indirect transactions with one or more related members to the extent such expenses
464 and costs were deductible or deducted in computing federal taxable income for Virginia purposes. This
465 addition shall not be required for any portion of the interest expenses and costs, if:

466 (1) The related member has substantial business operations relating to interest-generating
467 activities, in which the related member pays expenses for at least five full-time employees who maintain,
468 manage, defend or are otherwise responsible for operations or administration relating to the interest-
469 generating activities; and

470 (2) The interest expenses and costs are not directly or indirectly for, related to or in connection
471 with the direct or indirect acquisition, maintenance, management, sale, exchange, or disposition of
472 intangible property; and

473 (3) The transaction giving rise to the expenses and costs between the corporation and the related
474 member has a valid business purpose other than the avoidance or reduction of taxation and payments
475 between the parties are made at arm's length rates and terms; and

476 (4) One of the following applies:

(i) The corresponding item of income received by the related member is subject to a tax based on or measured by net income or capital imposed by Virginia, another state, or a foreign government that has entered into a comprehensive tax treaty with the United States government;

(ii) Payments arise pursuant to a pre-existing contract entered into when the parties were not related members provided the payments continue to be made at arm's length rates and terms;

(iii) The related member engages in transactions with parties other than related members that generate revenue in excess of \$2 million annually; or

(iv) The transaction giving rise to the interest payments between the corporation and a related member was done at arm's length rates and terms and meets any of the following: (a) the related member uses funds that are borrowed from a party other than a related member or that are paid, incurred or passed-through to a person who is not a related member; (b) the debt is part of a regular and systematic funds management or portfolio investment activity conducted by the related member, whereby the funds of two or more related members are aggregated for the purpose of achieving economies of scale, the internal financing of the active business operations of members, or the benefit of centralized management of funds; (c) financing the expansion of the business operations; or (d) restructuring the debt of related members, or the pass-through of acquisition-related indebtedness to related members.

b. A corporation required to add to its federal taxable income interest expenses and costs pursuant to subdivision a may petition the Tax Commissioner, after filing the related income tax return for the taxable year and remitting to the Tax Commissioner all taxes, penalties, and interest due under this article for such taxable year including tax upon any amount of interest expenses and costs required to be added to federal taxable income pursuant to subdivision a, to consider evidence relating to the transaction or transactions between the corporation and a related member or members that resulted in the corporation's taxable income being increased, as required under subdivision a, for such interest expenses and costs.

If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and convincing evidence, that the transaction or transactions between the corporation and a related member or members resulting in such increase in taxable income pursuant to subdivision a had a valid business purpose other than the avoidance or reduction of the tax due under this chapter and that the related

payments between the parties were made at arm's length rates and terms, the Tax Commissioner shall permit the corporation to file an amended return. For purposes of such amended return, the requirements of subdivision a shall not apply to any transaction for which the Tax Commissioner is satisfied (and has identified) that the transaction had a valid business purpose other than the avoidance or reduction of the tax due under this chapter and that the related payments between the parties were made at arm's length rates and terms. Such amended return shall be filed by the corporation within one year of the written permission granted by the Tax Commissioner and any refund of the tax imposed under this article shall include interest at a rate equal to the rate of interest established under § 58.1-15 and such interest shall accrue as provided under § 58.1-1833. However, upon the filing of such amended return, any related member of the corporation that subtracted from taxable income amounts received pursuant to subdivision C 21 shall be subject to the tax imposed under this article on that portion of such amounts for which the corporation has filed an amended return pursuant to this subdivision. In addition, for such transactions identified by the Tax Commissioner herein by which he has been satisfied by clear and convincing evidence, the Tax Commissioner may permit the corporation in filing income tax returns for subsequent taxable years to deduct the related interest expenses and costs without making the adjustment under subdivision a.

The Tax Commissioner may charge a fee for all direct and indirect costs relating to the review of any petition pursuant to this subdivision, to include costs necessary to secure outside experts in evaluating the petition. The Tax Commissioner may condition the review of any petition pursuant to this subdivision upon payment of such fee.

No suit for the purpose of contesting any action of the Tax Commissioner under this subdivision shall be maintained in any court of this Commonwealth.

c. Nothing in subdivision B 9 shall be construed to limit or negate the Department's authority under § 58.1-446.

d. For purposes of subdivision B 9:

"Arm's-length rates and terms" means that (i) two or more related members enter into a written agreement for the transaction, (ii) such agreement is of a duration and contains payment terms substantially

similar to those that the related member would be able to obtain from an unrelated entity, (iii) the interest is at or below the applicable federal rate compounded annually for debt instruments under § 1274(d) of the Internal Revenue Code that was in effect at the time of the agreement, and (iv) the borrower or payor adheres to the payment terms of the agreement governing the transaction or any amendments thereto.

"Valid business purpose" means one or more business purposes that alone or in combination constitute the motivation for some business activity or transaction, which activity or transaction improves, apart from tax effects, the economic position of the taxpayer, as further defined by regulation.

10. a. For taxable years beginning on and after January 1, 2009, the amount of dividends deductible under §§ 561 and 857 of the Internal Revenue Code by a Captive Real Estate Investment Trust (REIT). For purposes of this subdivision, a REIT is a Captive REIT if:

- (1) It is not regularly traded on an established securities market;
- (2) More than 50 percent of the voting power or value of beneficial interests or shares of which, at any time during the last half of the taxable year, is owned or controlled, directly or indirectly, by a single entity that is (i) a corporation or an association taxable as a corporation under the Internal Revenue Code; and (ii) not exempt from federal income tax pursuant to § 501(a) of the Internal Revenue Code; and
- (3) More than 25 percent of its income consists of rents from real property as defined in § 856(d) of the Internal Revenue Code.

b. For purposes of applying the ownership test of subdivision 10 a (2), the following entities shall not be considered a corporation or an association taxable as a corporation:

- (1) Any REIT that is not treated as a Captive REIT;
- (2) Any REIT subsidiary under § 856 of the Internal Revenue Code other than a qualified REIT subsidiary of a Captive REIT;
- (3) Any Listed Australian Property Trust, or an entity organized as a trust, provided that a Listed Australian Property Trust owns or controls, directly or indirectly, 75 percent or more of the voting or value of the beneficial interests or shares of such trust; and
- (4) Any Qualified Foreign Entity.

557 c. For purposes of subdivision B 10, the constructive ownership rules prescribed under § 318(a) of
558 the Internal Revenue Code, as modified by § 856(d)(5) of the Internal Revenue Code, shall apply in
559 determining the ownership of stock, assets, or net profits of any person.

560 d. For purposes of subdivision B 10:

561 "Listed Australian Property Trust" means an Australian unit trust registered as a Management
562 Investment Scheme, pursuant to the Australian Corporations Act, in which the principal class of units is
563 listed on a recognized stock exchange in Australia and is regularly traded on an established securities
564 market.

565 "Qualified Foreign Entity" means a corporation, trust, association or partnership organized outside
566 the laws of the United States and that satisfies all of the following criteria:

567 (1) At least 75 percent of the entity's total asset value at the close of its taxable year is represented
568 by real estate assets, as defined in § 856(c)(5)(B) of the Internal Revenue Code, thereby including shares
569 or certificates of beneficial interest in any REIT, cash and cash equivalents, and U.S. Government
570 securities;

571 (2) The entity is not subject to a tax on amounts distributed to its beneficial owners, or is exempt
572 from entity level tax;

573 (3) The entity distributes, on an annual basis, at least 85 percent of its taxable income, as computed
574 in the jurisdiction in which it is organized, to the holders of its shares or certificates of beneficial interest;

575 (4) The shares or certificates of beneficial interest of such entity are regularly traded on an
576 established securities market or, if not so traded, not more than 10 percent of the voting power or value in
577 such entity is held directly, indirectly, or constructively by a single entity or individual; and

578 (5) The entity is organized in a country that has a tax treaty with the United States.

579 e. For taxable years beginning on or after January 1, 2016, for purposes of subdivision B 10, any
580 voting power or value of the beneficial interests or shares in a REIT that is held in a segregated asset
581 account of a life insurance corporation as described in § 817 of the Internal Revenue Code shall not be
582 taken into consideration when determining if such REIT is a Captive REIT.

11. For taxable years beginning on or after January 1, 2016, to the extent that tax credit is allowed for the same donation pursuant to § 58.1-439.12:12, any amount claimed as a federal income tax deduction for such donation under § 170 of the Internal Revenue Code, as amended or renumbered.

C. There shall be subtracted to the extent included in and not otherwise subtracted from federal taxable income:

1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States including, but not limited to, stocks, bonds, treasury bills, and treasury notes, but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

2. Income derived from obligations, or on the sale or exchange of obligations of this Commonwealth or of any political subdivision or instrumentality of this Commonwealth.

3. Dividends upon stock in any domestic international sales corporation, as defined by § 992 of the Internal Revenue Code, 50 percent or more of the income of which was assessable for the preceding year, or the last year in which such corporation has income, under the provisions of the income tax laws of the Commonwealth.

4. The amount of any refund or credit for overpayment of income taxes imposed by this Commonwealth or any other taxing jurisdiction.

5. Any amount included therein by the operation of the provisions of § 78 of the Internal Revenue Code (foreign dividend gross-up).

6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

7. Any amount included therein by the operation of § 951 of the Internal Revenue Code (subpart F income) or, for taxable years beginning on and after January 1, 2018, § 951A of the Internal Revenue Code (Global Intangible Low-Taxed Income).

8. Any amount included therein which is foreign source income as defined in § 58.1-302.

9. [Repealed.]

- 610 10. The amount of any dividends received from corporations in which the taxpaying corporation
611 owns 50 percent or more of the voting stock.
- 612 11. [Repealed.]
- 613 12, 13. [Expired.]
- 614 14. For taxable years beginning on or after January 1, 1995, the amount for "qualified research
615 expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not
616 deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code.
- 617 15. For taxable years beginning on or after January 1, 2000, the total amount actually contributed
618 in funds to the Virginia Public School Construction Grants Program and Fund established in Chapter 11.1
619 (§ 22.1-175.1 et seq.) of Title 22.1.
- 620 16. For taxable years beginning on or after January 1, 2000, but before January 1, 2015, the gain
621 derived from the sale or exchange of real property or the sale or exchange of an easement to real property
622 which results in the real property or the easement thereto being devoted to open-space use, as that term is
623 defined in § 58.1-3230, for a period of time not less than 30 years. To the extent a subtraction is taken in
624 accordance with this subdivision, no tax credit under this chapter for donating land for its preservation
625 shall be allowed for three years following the year in which the subtraction is taken.
- 626 17. For taxable years beginning on and after January 1, 2001, any amount included therein with
627 respect to § 58.1-440.1.
- 628 18. For taxable years beginning on and after January 1, 1999, income received as a result of (i) the
629 "Master Settlement Agreement," as defined in § 3.2-3100; and (ii) the National Tobacco Grower
630 Settlement Trust dated July 19, 1999, by (a) tobacco farming businesses; (b) any business holding a
631 tobacco marketing quota, or tobacco farm acreage allotment, under the Agricultural Adjustment Act of
632 1938; or (c) any business having the right to grow tobacco pursuant to such a quota allotment.
- 633 19, 20. [Repealed.]
- 634 21. For taxable years beginning on and after January 1, 2004, any amount of intangible expenses
635 and costs or interest expenses and costs added to the federal taxable income of a corporation pursuant to

subdivision B 8 or B 9 shall be subtracted from the federal taxable income of the related member that received such amount if such related member is subject to Virginia income tax on the same amount.

22. For taxable years beginning on and after January 1, 2009, any gain recognized from the sale of launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide individuals the training or experience of a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch services must be performed in Virginia or originate from an airport or spaceport in Virginia.

23. For taxable years beginning on and after January 1, 2009, any gain recognized as a result of resupply services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8, and launched from an airport or spaceport in Virginia.

24. For taxable years beginning on or after January 1, 2011, any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as investment services partnership interest income (otherwise known as investment partnership carried interest income) for federal income tax purposes. To qualify for a subtraction under this subdivision, such income must be attributable to an investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the Secretary of Administration, provided the business has its principal office or facility in the Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this subdivision, the investment must be made between the dates of April 1, 2010, and June 30, 2020. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an investment in the same business.

25. a. Income, including investment services partnership interest income (otherwise known as investment partnership carried interest income), attributable to an investment in a Virginia venture capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this subdivision

663 for an investment in a company that is owned or operated by an affiliate of the taxpayer. No subtraction
664 shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision C
665 24 for the same investment.

666 b. As used in this subdivision 25:

667 "Qualified portfolio company" means a company that (i) has its principal place of business in the
668 Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or
669 service other than the management or investment of capital; and (iii) provides equity in the company to
670 the Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company"
671 does not include a company that is an individual or sole proprietorship.

672 "Virginia venture capital account" means an investment fund that has been certified by the
673 Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital
674 account, the operator of the investment fund shall register the investment fund with the Department prior
675 to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed
676 to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one
677 investor who has at least four years of professional experience in venture capital investment or
678 substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to,
679 an undergraduate degree from an accredited college or university in economics, finance, or a similar field
680 of study. The Department may require an investment fund to provide documentation of the investor's
681 training, education, or experience as deemed necessary by the Department to determine substantial
682 equivalency. If the Department determines that the investment fund employs at least one investor with the
683 experience set forth herein, the Department shall certify the investment fund as a Virginia venture capital
684 account at such time as the investment fund actually invests at least 50 percent of the capital committed
685 to its fund in qualified portfolio companies.

686 26. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for
687 a subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before
688 December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by an

affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision C 24 or 25 for the same investment.

b. As used in this subdivision 26:

"Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of § 2.2-115.

"Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3 of § 2.2-115.

"Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C. § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If the Department determines that the trust satisfies the preceding criteria, the Department shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed.

27. For taxable years beginning on and after January 1, 2019, any gain recognized from the taking of real property by condemnation proceedings.

28. For taxable years beginning on and after January 1, 2020, but before January 1, 2021, up to \$100,000 of all grant funds received by the taxpayer under the Rebuild Virginia program established by the Governor and administered by the Department of Small Business and Supplier Diversity.

D. For taxable years beginning on and after January 1, 2006, there shall be subtracted from federal taxable income contract payments to a producer of quota tobacco or a tobacco quota holder as provided under the American Jobs Creation Act of 2004 (P.L. 108-357) as follows:

1. If the payment is received in installment payments, then the recognized gain, including any gain recognized in taxable year 2005, may be subtracted in the taxable year immediately following the year in which the installment payment is received.

2. If the payment is received in a single payment, then 10 percent of the recognized gain may be subtracted in the taxable year immediately following the year in which the single payment is received. The taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

E. Adjustments to federal taxable income shall be made to reflect the transitional modifications provided in § 58.1-315.

F. Notwithstanding any other provision of law, the income from any disposition of real property which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or business, as defined in § 453(l)(1)(B) of the Internal Revenue Code, of property made on or after January 1, 2009, may, at the election of the taxpayer, be recognized under the installment method described under § 453 of the Internal Revenue Code, provided that (i) the election relating to the dealer disposition of the property has been made on or before the due date prescribed by law (including extensions) for filing the taxpayer's return of the tax imposed under this chapter for the taxable year in which the disposition occurs, and (ii) the dealer disposition is in accordance with restrictions or conditions established by the Department, which shall be set forth in guidelines developed by the Department. Along with such restrictions or conditions, the guidelines shall also address the recapture of such income under certain circumstances. The development of the guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

G. For taxable years beginning on and after January 1, 2018, there shall be deducted to the extent included in and not otherwise subtracted from federal taxable income 20 percent of business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code. For purposes of this subsection, "business interest" means the same as that term is defined under § 163(j) of the Internal Revenue Code.

H. For taxable years beginning on and after January 1, 2020, but before January 1, 2021, there shall be deducted to the extent not otherwise subtracted from federal taxable income up to \$100,000 of the amount that is not deductible when computing federal taxable income solely on account of the portion of subdivision B 10 of § 58.1-301 related to Paycheck Protection Program loans.